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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALICIA UHOUSE, *et al.*,

Plaintiffs,

vs.

UNITED STATES DEPARTMENT OF THE
INTERIOR, BUREAU OF RECLAMATION,
et al.,

Defendants.

Case No. 3:08-cv-0285-LDG-RAM

JUDY KROSHUS, *et al.*

Plaintiffs,

vs.

UNITED STATES OF AMERICA, *et al.*

Defendants.

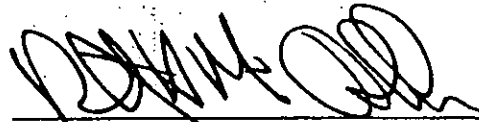
Case No. 3:08-cv-0246-LDG-RAM

**ORDER RE MAILING OF CLASS ACTION NOTICE AND SERVICE OF CLASS
ACTION NOTICE BY PUBLICATION**

Pursuant to this Court's *Stipulation and Order for Approval of Settlement of Class Action Pursuant to FRCP 23(e) and Distribution of Funds* filed June 13, 2011, Plaintiffs' counsel shall mail notice of the class certification and proposed settlements with the approved *Settlement Claim Form* to class members who have not previously received such notice no later than Friday, July 8, 2011. The approved *Notice of Proposed Settlements* is attached hereto as Exhibit "1."

1 Plaintiffs' counsel shall also publish notice of the settlements in the *Reno Gazette Journal* and
2 *Fernley Leader* for three (3) successive weeks. See attached Exhibit "2." Objections to the
3 proposed settlements shall be mailed to the Clerk of the Court and postmarked no later than
4 Wednesday, July 27, 2011.
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6 IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

9 DATED: July 7, 2011
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Exhibit 1

Exhibit 1

NOTICE OF PROPOSED SETTLEMENTS

**IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND
FOR THE COUNTY OF LYON**

STEVEN REYNOLDS, et al.

Case No.: CI 18948

vs.

Dept. No.: I (Justice Shearing)

TRUCKEE-CARSON IRRIGATION DISTRICT,
a political subdivision of the State of Nevada;
ERNEST C. SCHANK, an individual; RICHARD
HARRIMAN, an individual; RAY PETERSON,
an individual; LESTER DeBRAGA, an individual;
LARRY MILLER, an individual; DAVID STIX, JR.,
an individual; DON TRAVIS, an individual.

STEVEN REYNOLDS, et al.

Case No.: CI 19002

vs.

Dept. No.: III (Justice Shearing)

THE CITY OF FERNLEY, an incorporated city as of
2001 and a political subdivision of the State of Nevada;
COUNTY OF LYON, a County of the State of Nevada
and a political subdivision of the State of Nevada.

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

ALICIA UHOUSE, et al.

Case No. 3:08-cv-0285-LDG-RAM

vs.

UNITED STATES DEPARTMENT OF THE
INTERIOR, BUREAU OF RECLAMATION; et al.

JUDY KROSHUS, et al.

Case No. 3:08-cv-0246-LDG-RAM

vs.

UNITED STATES OF AMERICA; et al.

TO: CLASS MEMBERS OF THE ABOVE-ENTITLED CASES

THIS LEGAL NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

1. WHY SHOULD I READ THIS NOTICE?

Records indicate that you are a Class Member in one or more of the above class actions. Your rights may be affected by the proposed settlements of these lawsuits. If approved by the Court, these settlements will provide Class Members who submit a Settlement Claim Form (pursuant to the procedures described in Paragraph 6 below) with monetary compensation.

IF YOU WANT TO RECEIVE MONEY FROM THESE SETTLEMENTS, YOU MUST FILL OUT AND RETURN THE ENCLOSED CLAIM FORM. IF YOU DO NOT SEND IN A CLAIM FORM YOU WILL FOREVER LOSE YOUR RIGHT TO RECEIVE MONEY FROM THE SETTLEMENTS.

2. WHAT ARE THESE LAWSUITS ABOUT?

A. CASES AGAINST THE BOARD OF DIRECTORS OF THE TRUCKEE-CARSON IRRIGATION DISTRICT

Plaintiffs in *Reynolds, et al. v. TCID*, Third Judicial District Court, Case No.: CI 18948 and *Uhouse v. Bureau of Reclamation*, United States District Court, Case No. 3:08-cv-0285-LDG-RAM claim that the Board of Directors of the Truckee-Carson Irrigation District were negligent and grossly negligent in maintaining and operating the Truckee Canal. The Board of Directors of the Truckee-Carson Irrigation District have denied any wrongdoing, but have agreed to the proposed settlement in order to avoid further litigation.

B. CASES AGAINST THE CITY OF FERNLEY AND THE COUNTY OF LYON

Plaintiffs filed a *Complaint* against Defendants City of Fernley and the County of Lyon in *Reynolds, et al. v. City of Fernley, et al.*, Case No.: CI 19002, *Kroshus v. United States*, United States District Court, Case No. 3:08-cv-0246-LDG-RAM and *Kroshus v. United States*, United States District Court, Case No. 3:09-cv-00713-LDG-RAM based upon the City of Fernley's and the County of Lyon's failure to preserve and maintain needed preexisting drainage, infrastructure, and topographical features that protected residents and property from inundation due to the foreseeable and expected leaks of and breaches of the canal and/or the destruction thereof. Defendants City of Fernley and the County of Lyon have denied any wrongdoing, but have agreed to the proposed settlement in order to avoid further litigation.

3. WHO IS COVERED BY THE PROPOSED SETTLEMENTS?

You have been designated as a possible Class Member because records indicate that you did not opt out of one or more of the above-listed cases.

The classes have been defined as either:

Owners and renters of residential real property, including their families, situated in the City of Fernley, Lyon County, Nevada in January 2008 and who suffered damage

as a result of the collapse of an approximately 40-foot segment of Truckee Canal levee in the early morning of January 5, 2008.

Or:

Owners and renters, including their families, of Residential real property within the area identified by the City of Fernley on January 22, 2008, as being affected by the collapse of a segment of the Truckee Canal Embankment in the early morning of January 5, 2008.

4. WHAT ARE THE TERMS OF THE PROPOSED SETTLEMENTS?

Plaintiffs have reached proposed settlement agreements with two (2) separate groups of defendants: (1) the Board of Directors of Truckee-Carson Irrigation District; and (2) the City of Fernley and County of Lyon. Each of these separate settlement agreements are detailed below.

A. TERMS OF THE PROPOSED SETTLEMENT WITH THE BOARD OF DIRECTORS OF THE TRUCKEE-CARSON IRRIGATION DISTRICT (TCID Board of Directors).

The following is a summary of the basic terms and conditions of the proposed settlement with the TCID Board of Directors. You may also request a copy of the Settlement Agreement from one of the Plaintiffs' Counsel whose addresses are listed in Paragraph 8, below.

THE PROPOSED SETTLEMENT WITH THE TCID BOARD OF DIRECTORS IN THE CASES OF *Reynolds v. TCID*, Third Judicial District Court, Case No. CI 18948 and *Uhouse v. Bureau of Reclamation*, United States District Court, Case No. 3:08-cv-0285-LDG-RAM PROVIDES AS FOLLOWS:

- (1) Country Mutual Insurance Company, on behalf of TCID Board of Directors Ernest C. Schank, Richard Harriman, Raymond Peterson, Lester Debraga, Larry Miller and Don Travis, shall pay a total of **Three Million Eight Hundred Thousand and 00/100 Dollars (\$3,800,000.00)**;
- (2) Allstate Insurance Company, on behalf of TCID Board of Director David Stix, Jr., shall pay a total of **Fifty Thousand and 00/100 Dollars (\$50,000.00)**; and,
- (3) Plaintiffs shall dismiss all actions against the TCID Board of Directors and release the TCID Board of Directors.

If the settlement is approved, the cases against the TCID Board of Directors will be dismissed and the TCID Board of Directors Settlement Class Members will release any claims against the TCID Board of Directors that were asserted or could have been asserted in *Reynolds v. TCID*, Third Judicial District Court, Case No. CI 18948, *Uhouse v. Bureau of Reclamation*, United States District Court, Case No. 3:08-cv-0285-LDG-RAM and *Kroshus v. United States*, United States District Court, Case No. 3:08-cv-0246-LDG-RAM.

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B. TERMS OF THE PROPOSED SETTLEMENT WITH THE CITY OF FERNLEY AND THE COUNTY OF LYON.

The following is a summary of the basic terms and conditions of the proposed settlement with the City of Fernley and the County of Lyon. You may also request a copy of the Settlement Agreement from one of the Plaintiffs' Counsel whose addresses are listed in Paragraph 8, below.

THE PROPOSED SETTLEMENT WITH THE CITY OF FERNLEY AND THE COUNTY OF LYON IN THE CASES OF *Reynolds v. City of Fernley*, Third Judicial District Court, Case No. CI 19002 and *Kroshus v. United States*, United States District Court, Case No. 3:08-cv-0246-LDG-RAM PROVIDES AS FOLLOWS:

- (1) Defendant City of Fernley shall pay a total of **Five Million and 00/100 Dollars** (\$5,000,000.00). The funds paid by the City of Fernley are for the incremental damages allegedly caused by the construction of the Wrangler Road-Wagon Wheel intersection (the knuckle) along with other claims and theories.
- (2) Defendant Lyon County shall pay a total of **One Million Three Hundred Thousand and 00/100 Dollars** (\$1,300,000.000). The funds paid by Lyon County are for incremental damages allegedly caused by the construction of Jenny's Lane Crossing along with other claims and theories.
- (3) Plaintiffs shall dismiss all actions against the City of Fernley and the County of Lyon and release the City of Fernley and the County of Lyon.

If the settlement is approved, the cases against the City of Fernley and the County of Lyon will be dismissed and the City of Fernley and County of Lyon Settlement Class Members will release any claims against the City of Fernley and the County of Lyon that were asserted or could have been asserted in *Reynolds v. TCID*, Third Judicial District Court, Case No. CI 18948, *Reynolds v. City of Fernley and the County of Lyon*, Third Judicial District Court, Case No. CI 19002, *Uhouse v. Bureau of Reclamation*, United States District Court, Case No. 3:08-cv-0285-LDG-RAM and *Kroshus v. United States*, United States District Court, Case No. 3:08-cv-0246-LDG-RAM.

5. HOW WILL THE SETTLEMENT FUNDS BE DISTRIBUTED?

The balance of settlement proceeds, after deducting for attorneys' fees (See Paragraph 10) and costs of the suits, will be distributed separately to each member of the TCID Board of Directors Settlement Class, and the City of Fernley and County of Lyon Settlement Class, based on three categorizations: (1) forty percent (40%) will go to compensate homeowner class members who suffered real property damages; (2) ten percent (10%) will go to compensate individual flood victims for personal property damages; and (3) fifty percent (50%) will go to compensate individual flood victims for personal injury and/or emotional distress damages.

Each Class Member shall be entitled to receive a distribution of the Member's share of the Settlement Amount. That amount includes Plaintiffs' counsel's fees and costs. Out of said amount and prior to distribution of that amount to which the Class Member is entitled, the pro rata share of Plaintiffs' counsel's fees as set forth herein shall be withheld and paid to Plaintiffs counsel.

The first category (40% of the settlement funds from each settlement class) will go to

compensate homeowners that suffered damages to real property, diminution in value and loss of use. The settlement funds in this category are to be allocated according to the level of water intrusion in each home:

- (1) Level 1- No water on property (generally not eligible to receive settlement funds);
- (2) Level 2- Water on property but no water in garage/crawlspace;
- (3) Level 3- Water in garage and/or crawlspace; and
- (4) Level 4- Water in living space

An engineer has used elevation surveys and other data to determine the level of water intrusion in each house. Each property owners' claim will be compared to the engineer's analysis. Any claim of level of water intrusion inconsistent with the engineer's analysis will be submitted to the Court for determination.

Settlement property owner Class Members who qualify for Level 4 status will receive twice the amount of monetary compensation as Settlement Class Members who qualify for Level 3 status. Settlement Class Members who qualify for Level 3 status will receive twice the amount of monetary compensation as Settlement Class Members who qualify for Level 2 status. Property owners who qualify for Level 1 status will generally not be entitled to settlement funds absent special circumstances.

The second category (10% of the settlement funds from each settlement class) will go to compensate individual flood victims for personal property damage affected by the Truckee Canal embankment failure and ensuing flood. The settlement funds in this category are to be allocated to individuals according to the level of water intrusion in the home they occupied:

- (1) Level 1- No water on property (generally not eligible to receive settlement funds);
- (2) Level 2- Water on property but no water in garage/crawlspace;
- (3) Level 3- Water in garage and/or crawlspace; and
- (4) Level 4- Water in living space

An engineer has used elevation surveys and other data to determine the level of water intrusion in each house. Each individual's claim will be compared to the engineer's analysis. Any claim of level of water intrusion inconsistent with the engineer's analysis will be submitted to the Court for determination.

Settlement Class Members who qualify for Level 4 status will receive twice the amount of monetary compensation as Settlement Class Members who qualify for Level 3 status. Settlement Class Members who qualify for Level 3 status will receive twice the amount of monetary compensation as Settlement Class Members who qualify for Level 2 status. Individuals who resided in a residence who qualify for Level 1 status will generally not be entitled to settlement funds absent special circumstances.

The third category (50% of the settlement funds from each settlement class) will go to compensate individual flood victims for personal injury damage and/or emotional distress damage because they were a resident or occupant of a home affected by the Truckee Canal embankment failure and ensuing flood. The settlement funds in this category are to be allocated to individual according to the level of water intrusion in the home they occupied:

- (1) Level 1- No water on property (generally not eligible to receive settlement funds);
- (2) Level 2- Water on property but no water in garage/crawlspace;
- (3) Level 3- Water in garage and/or crawlspace; and
- (4) Level 4- Water in living space

An engineer has used elevation surveys and other data to determine the level of water intrusion in each house. Each individual's claim will be compared to the engineer's analysis. Any claim of level of water intrusion inconsistent with the engineer's analysis will be submitted to the Court for determination.

Settlement Class Members who qualify for Level 4 status will receive twice the amount of monetary compensation as Settlement Class Members who qualify for Level 3 status. Settlement Class Members who qualify for Level 3 status will receive twice the amount of monetary compensation as Settlement Class Members who qualify for Level 2 status. Individuals who resided in a residence who qualify for Level 1 status will generally not be entitled to settlement funds absent special circumstances.

The named Plaintiffs in each of the above-list actions will share in the allocation of the settlement proceeds described above, except that, in addition, the named Plaintiffs will each receive \$1,000.00 payable from the settlement proceeds for compensation for serving as representatives of the class.

6. WHAT DO I NEED TO DO?

(a) **IF YOU WISH TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE SETTLEMENT FUNDS:** To obtain settlement proceeds, you must complete the enclosed Settlement Claim Form. **YOU MUST COMPLETE THE SETTLEMENT CLAIM FORM POSTMARKED BY JULY 27, 2011, AT THE LATEST OR YOU WILL NOT BE ELIGIBLE TO OBTAIN SETTLEMENT PROCEEDS.**

The enclosed Settlement Claim Form requires each class member (whether you are an owner or renter) to answer five (5) questions:

- (1) On January 5, 2008, did you own a residence that was affected by the Truckee Canal embankment failure?
- (2) On January 5, 2008, did you own personal property (clothes, furniture, household item, etc.) that was/were affected by the Truckee Canal embankment failure?
- (3) On or about January 5, 2008, did you have physical contact with the water, mud, and/or debris that resulted from the Truckee Canal embankment failure?
- (4) Did you receive any medical treatment and/or medical care that was paid in part or in whole by Medicare?
- (5) Have you filed bankruptcy since January 5, 2008?

(b) **IF YOU WISH TO OBJECT TO ONE OR MORE OF THE SETTLEMENTS OR TO THE ALLOCATION OF SETTLEMENT PROCEEDS:** Any Settlement Class Member who wishes to object to any and/or all of the settlements and has not excluded himself or herself from the Class must file a Notice of Objection with Senior Justice Miriam Shearing, c/o Lyon County Court Clerk, 27 S. Main Street, Yerington, Nevada 89447 or Judge Lloyd George, c/o United States District Court Clerk, United States District Court for the District of Nevada, Bruce R. Thompson U.S. Courthouse, 400 S. Virginia Street, Reno, NV 89501 (775) 686-5800. That Notice must be postmarked by JULY 27, 2011 for it to be considered and must briefly state the position(s) you wish to take with respect to the settlement and/or any related matters.

ANY OBJECTIONS TO THE SETTLEMENT WITH THE TCID BOARD OF DIRECTORS MUST BEGIN WITH THE FOLLOWING STATEMENT: "I OBJECT TO THE PROPOSED SETTLEMENT WITH THE TCID BOARD OF DIRECTORS IN THE CASES OF *Reynolds v. TCID*, Third Judicial District Court, Case No. CI 18948 and *Uhouse v. Bureau of Reclamation*, United States District Court, Case No. 3:08-cv-0285-LDG-RAM."

ANY OBJECTIONS TO THE SETTLEMENT WITH THE CITY OF FERNLEY AND THE COUNTY OF LYON MUST BEGIN WITH THE FOLLOWING STATEMENT: "I OBJECT TO THE PROPOSED SETTLEMENT WITH THE CITY OF FERNLEY AND THE COUNTY OF LYON IN THE CASES OF *Reynolds v. City of Fernley*, Third Judicial District

Court, Case No. CI 19002 and *Kroshus v. United States*, United States District Court, Case No. 3:08-cv-0246-LDG-RAM."

All objections must state the objector's name, address, and telephone number, facts establishing membership in the Settlement Class, if possible, and shall provide a written statement of each objection asserted, including all reasons for the objection(s). You must sign the objection personally or by legal counsel.

7. WHO REPRESENTS PLAINTIFFS AND THE SETTLEMENT CLASSES?

Plaintiffs and the Settlement Classes are represented by the following attorneys in this matter:

Robert C. Maddox, Esq. Robert C. Maddox & Associates 10587 Double R. Blvd., Suite 100 Reno, Nevada 89521 (775) 322-3666 Counsel in <i>Reynolds v. TCID</i> ; <i>Reynolds v. City of Fernley</i> ; and <i>Uhouse v. Bureau of Reclamation</i> .	Calvin R.X Dunlap, Esq. Dunlap & Laxalt 537 Ralston Street Reno, Nevada 89503 (775) 323-7790 Counsel in <i>Reynolds v. TCID</i> ; <i>Reynolds v. City of Fernley</i> ; and <i>Uhouse v. Bureau of Reclamation</i> .
Vernon E. Leverty, Esq. Leverty & Associates Law, Chtd 832 Willow Street Reno, Nevada 89502 (775) 322-6636 Counsel in <i>Reynolds v. TCID</i> ; <i>Reynolds v. City of Fernley</i> ; and <i>Uhouse v. Bureau of Reclamation</i> .	Robert R. Hager, Esq. Hager & Hearne 245 E. Liberty Street, Suite 110 Reno, Nevada 89501 (775) 329-5800 Counsel in <i>Kroshus v. United States</i> . Lee T. Hotchkin, Esq. 1025 Ridgeview Drive, Suite 200 Reno, Nevada 89519 (775) 786-5791 Counsel in <i>Kroshus v. United States</i> .

8. WHY DO PLAINTIFFS' COUNSEL SUPPORT THE SETTLEMENTS?

Plaintiffs' Counsel believe that the settlements, which were reached after years of litigation and mediation conducted by an experienced mediator, reflect a reasonable and fair resolution of the claims asserted in these matters. The Settling Defendants have contested the merits of Plaintiffs' claims and the amount of damages that Settlement Class Members may be entitled to. Counsel believe that the settlement fairly compromises the parties' positions.

9. HOW WILL PLAINTIFFS' COUNSELS' FEES BE PAID?

Plaintiffs' Counsel will petition the Court for an award of fees and expenses to be paid out of the settlement proceeds. Plaintiffs' Counsel will apply to the Court for a total award of attorneys' fees not to exceed 33 1/3 percent of the total settlement proceeds. Plaintiffs' Counsel have worked on this matter for over three (3) years without being paid and they have advanced considerable amounts to pay for out-of-pocket expenses, including travel, depositions, expert consultants, etc. The Court will ultimately determine whether counsel are entitled to a fee award

and the appropriate amount of any such award.

10. IMPORTANT NOTICE REGARDING THE FILING OF BANKRUPTCY

If you filed Bankruptcy, be informed that it is Bankruptcy fraud to fail to disclose this proposed settlement in your Bankruptcy filing. If you provide your Case No. and identify the State and District in which you filed Bankruptcy, Plaintiffs' counsel will provide appropriate notice in your Bankruptcy Case of the proposed class action settlement set forth herein.

If you are currently a Debtor in a bankruptcy proceeding, send a copy of this notice to your bankruptcy attorney and trustee immediately. This settlement may be an asset of the estate.

11. WHEN AND WHERE IS THE SETTLEMENT HEARING?

While the parties have agreed to the settlements, the Settlement Agreements will only take effect if they receive final approval from the Courts as fair, reasonable, and adequate. The Settlement Hearing for final approval is scheduled for **10:00 a.m. on JULY 29, 2011** at Department 7, of the Second Judicial District Court, Washoe County, 75 Court St., Reno, NV 89520. You may attend if you desire.

Exhibit 2

Exhibit 2

NOTICE OF PROPOSED SETTLEMENTS

TO: OWNERS AND RENTERS, INCLUDING THEIR FAMILIES, OF RESIDENTIAL PROPERTY LOCATED IN THE CITY OF FERNLEY, LYON COUNTY, NEVADA IN JANUARY 2008 AND AS SHOWN ON THE "MAP OF ESTIMATED EFFECTED AREA UPDATED: 1-11-2008" PUBLISHED BY THE CITY OF FERNLEY AND WHO SUFFERED DAMAGE FOLLOWING THE COLLAPSE OF THE TRUCKEE CANAL EMBANKMENT ON JANUARY 5, 2008, MEANING FLOOD WATER INUNDATED YOUR LIVING SPACE, CRAWLSPACE, GARAGE, BASEMENT, AND/OR THE LAND COMPRISING YOUR REAL PROPERTY

Your rights may be affected by the proposed settlements of the lawsuits known as *Reynolds, et al., v. TCID, et al.*, CI 18948, Third Judicial District Court, Lyon County, *Reynolds, et al., v. City of Fernley, et al.*, CI 19002, Third Judicial District Court, Lyon County, *Uhouse, et al., v. Bureau of Reclamation, et al.*, 3:08-cv-0285-LDG-RAM, United States District Court for the District of Nevada; and *Kroshus, et al., v. United States, et al.*, 3:08-cv-0246-LDG-RAM, United States District Court for the District of Nevada. If approved by the Court, the settlement will provide Settlement Class Members who submit a Settlement Claim Form with monetary compensation.

If you are a member of the Settlement Class, you must complete a Settlement Claim Form postmarked by July 27, 2011 at the latest or you will not be eligible to obtain settlement proceeds. Please contact Robert C. Maddox & Associates, 10587 Double R Blvd., Suite 100, Reno, Nevada, 89521, (775) 322-3666 for a Settlement Claim Form.

Any Settlement Class Member who wishes to object to any and/or all of the settlements and has not excluded himself or herself from the Class must file a Notice of Objection with Senior Justice Miriam Shearing, c/o Lyon County Court Clerk, 27 S. Main Street, Yerington, Nevada 89447 or Judge Lloyd George, c/o United States District Court Clerk, United States District Court for the District of Nevada, Bruce R. Thompson U.S. Courthouse, 400 S. Virginia Street Reno, NV 89501. That Notice must be postmarked by Wednesday, July 27, 2011 for it to be considered and must

state your name, address, telephone number, and the position(s) you wish to take with respect to the settlement and/or any related matters.

While the parties have agreed to the settlements, the Settlement Agreements will only take effect if they receive final approval from the Court as fair, reasonable, and adequate. The Settlement Hearing for final approval is scheduled for 10 AM on Friday, July 29, 2011, at Department 7 of the Second Judicial District Court, Washoe County, 75 Court St., Reno, NV 89520.